

60505CIP2 (49991)
Reply to Office Action of January 31, 2006

Group III, claims 64-65, drawn to a separation process, classified in class 210, subclass 656.

Applicants are required to elect one of the above groups for prosecution on the merits. Applicants respectfully traverse the requirements for restriction and election, and submit that the requirements are improper.

Applicants assert that the subject matter of these groups represent different embodiments of a single inventive concept for which a single patent should issue. The pending claims represent an intricate web of knowledge, continuity of effort, and consequences of a single invention, which merit examination in a single application.

The unifying concept of the claimed embodiments of the invention is a copolymer having at least one hydrophobic monomer, at least one hydrophilic monomer and at least one ion-exchange functional moiety. This copolymer is at the core of the porous material claims of Group I, the copolymer claims of Group II, and the separation process claims of Group III.

Notwithstanding the foregoing, Applicants submit that a sufficient search and examination with respect to the subject matter of all claims can be made without serious burden. As the M.P.E.P. states:

If the search and examination of an entire application can be made without serious burden, the examiner must examine it on the merits, even though it includes claims to independent or distinct inventions.

M.P.E.P. § 803 (8th ed., Rev. No. 3, August 2005).

That is, even if the above-enumerated groups of claims are drawn to distinct inventions, the Examiner must still examine the entire application on the merits because doing so will not result in a serious burden.

Applicants submit that the search and examination of all the claims will have substantial overlap, and no serious burden will result from searching and examining all claims in the same application. This is especially true given the extensive computer databases and powerful search engines at the Examiner's disposal.

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The Office Communication indicates that the inventions of Groups I, II and III have allegedly acquired a separate status in the art as is shown by their different classifications. However, Applicants submit that the classification system developed and used by the Patent Office has absolutely no bearing on whether or not the inventions of Groups I, II, and III have acquired a separate status in the art.

Those of ordinary skill in the art, who rarely use the patent classification system, would best determine whether aspects of a given technology have acquired a separate status in the art. Indeed, most artisans of ordinary skill in a particular art are unaware that such a classification system exists. Applicants submit that one of ordinary skill in the art would not consider that the claims of Groups I, II and III have acquired a separate status in the art. Moreover, assuming for the sake of argument that the patent office classification system has some bearing on whether classes of inventions have acquired a separate status in the art, the three alleged inventions are all classified in class 210. Notwithstanding the different subclasses, if the alleged inventions had acquired a separate status in the art, one of ordinary skill in the art would expect them to have different classes. This is not the case. All are classified in class 210.

Accordingly, in the interest of savings of time and cost to Applicants and the Patent Office, Applicants respectfully request that all the claims be searched and examined in a single application and that all groups be rejoined into a single group.

Nevertheless, in compliance with the directives in the Office Communication and in order to expedite prosecution of the instant application, Applicants hereby provisionally elect, subject to the foregoing traverse, Group I, claims 1-10, 28, 30, 55-58, 60, 62, 66, 67, and 69, drawn to a porous material, classified in class 210, subclass 198.2.

The Examiner further requests election of a single copolymer (Election I), and a single form (Election II). Applicants provisionally elect the porous material of Group I, wherein the copolymer is divinylbenzene and N-vinylpyrrolidone, exemplified in Example 1 on pages 26-27 of the specification, and recited in claim 7. Applicants also provisionally elect the form of porous particles, disclosed at page 13, lines 1-5 of the specification, and recited in claims 2, 56, and 60.

Notwithstanding the foregoing provisional elections, Applicants request that, pursuant to M.P.B.P. §821.02, the claims of Groups II and III be rejoined with the claims of Group I upon a finding that the claims of Group I are in condition for allowance. The claims of group III

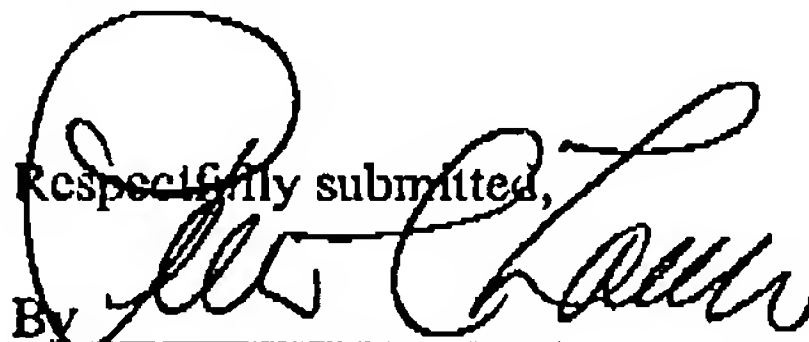
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depend directly from claim 1 and the claims of Group II recite all the elements of claim 1, albeit more specifically.

Moreover, with regard to the process claims of Group III, Applicant should be entitled to have claims directed to the use of the claimed compositions issue in a single patent. Indeed, Applicants are required to disclose how to make and use the claimed compositions. Therefore, at a minimum, Applicants respectfully request that the claims of Group III be rejoined with the claims of Group I upon a finding that the claims of Group I are in condition for allowance.

If a telephone conversation with Applicants' attorney would help expedite the prosecution of the above-identified application, the Examiner is urged to call the undersigned attorney at (617) 439-4444.

Dated: March 29, 2006

Respectfully submitted,


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